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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/512,810	02/25/00	BRANSTROM	A 182.0001

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HM12/0515

EXAMINER

YUCEL, I

ART UNIT

PAPER NUMBER

1636

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DATE MAILED: 05/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/512,810

Applicant(s)

BRANSTROM ET AL.

Examiner

Yucel Remy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7,8,10-13,20,-21,23-25,27,34,35,37,39,44 and 45-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claims 7,8,10-13,20,21,23-25,27,34,35,37,39,44,45-59 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☒ Other: *detailed action*.

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### **DETAILED ACTION**

Claims 7, 8, 10-13, 20, 21, 23-25, 27, 34, 35, 37, 39, 44, and 45-59 are pending in the application.

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 7, 8, 10-13, 24, 25 and 27, drawn to vaccines and methods of vaccination, classified in class 424, subclass 93.4.
- II. Claims 20, 21 and 23, drawn to nucleic acid delivery vehicles, classified in class 435, subclass 252.3.
- III. Claims 34, 35, 37, 39 and 45-52, drawn to methods of delivering antigens to a cell, classified in class 424, subclass 93.1.
- IV. Claim 44, drawn to a method of delivering nucleic acid to a cell, classified in class 435, subclass 440.
- V. Claims 53-59, drawn to method of inducing an immune response, classified in class 424, subclass 94.3.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, and V are not related. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions (methods) are not disclosed as capable of use together because they require different products. In addition, the different methods have different functions and effects, for

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example, methods of reducing disease symptoms with attenuated *Shigella* have different functions and effects from methods drawn to delivery an exogenous gene or genetic material.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their recognized divergent subject matter and their different classification and because the searches required for the different groups is not coextensive, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Remy Yucel, Ph.D. whose telephone number is (703) 305-1998. The examiner can normally be reached on Monday-Friday, 8:00am-4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703) 308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7939 for regular communications and (703) 305-4242 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Patent Analyst Dianiece Jacobs whose telephone number is (703) 305-3388.



Remy Yucel, Ph.D.  
Primary Examiner  
Art Unit 1636

ry  
May 11, 2001.